

**TOWN OF BARTON**  
**EMERGENCY MEETING MINUTES**  
**March 27, 2020 @ 1:00 PM**

**Board Members Present:** Don Foster, Kevin Everly, John Tryon, David Shipman

**Board Member Absent:** Supervisor Leon Cary

**Staff Present:** Fred Schweiger, Arrah Richards, Dan Eiklor

**Pledge of Allegiance**

**Cemetery Mowing Bid**

Councilman Foster had spoken to Supervisor Cary and the Supervisor would like to take the municipal building mowing off the bid. Councilman Foster agrees.

Councilman Shipman stated he thought Mr. Waibel seemed to be the only one who bid it right.

Councilman Everly mentioned the highway had purchased a zero-turn mower a couple of years ago and asked the Superintendent if he would be able to have one of his men mow the municipal building. Mr. Schweiger said he could, but it would tie them up for a few hours when they could be working on their real job. Currently the zero-turn is used at the highway to mow around that building.

Councilman Tryon stated he could go two different ways with the mowing bid; award both of the lowest bidders their portions or rebid the whole thing.

Councilman Everly said there is one legitimate low bid which is the \$14,400 (Dan Shay's). As far as Waibel goes, he didn't have all the information in his packet and Pond combined the two. Councilman Everly would like to go along with what the lawyer says, and she says rebid it.

Councilman Foster would like to cancel the bids and rebid it.

Councilman Tryon asked if the board isn't going to rebid the building, why not just award the bid to Danny and not rebid it again.

Councilman Everly's concern is there is a tried and true person who can do the job right. There is an unknown who could now underbid that person based on his last bid. The lawyer recommends throwing out the bids and bidding again. Danny Shay has a legitimate complaint. He's saying he bid that \$14,400 correctly and he put all the information in that bid.

Councilman Foster said he can bid it again.

Superintendent Schweiger added, he can, but he already did his bid correctly.

Councilman Foster would like to see the bids be thrown out but will be flexible on it.

Councilman Everly can't say that Waibel even did it right. He didn't have the information in his packet so he can't legitimately give him that \$2,000 bid for the municipal building. The only portion of all this that was done properly was the \$14,400 for the cemeteries done by Danny Shay. That's the only thing that could stand up legally.

Councilman Foster said he can go along with that. One of you will have to make a motion on that.

**Councilman Tryon** made a **motion** to accept Danny Shay's bid for \$14,400 for the mowing of the cemeteries and to forget about the bid for the municipal building, seconded by **Councilman Everly**.

**Roll Call**

John Tryon	Aye
Kevin Everly	Aye
Don Foster	Aye
Dave Shipman	Nay

**UPDATE: Added resolution to minutes**

**RESOLUTION NO 09-2020**

**AWARD MOWING BID FOR CEMETERIES**

**WHEREAS**, the Town of Barton put out to bid mowing of ten (10) cemeteries; and

**WHEREAS**, the sealed bids were to be received at the Town of Barton Clerk's Office with all proper documentation that is covered in the bid specifications by 4:00 pm on or before Monday, March 9, 2020; and

**WHEREAS**, the Town of Barton Board revisited the specifications at the Emergency Meeting called on Friday, March 27, 2020; and

**WHEREAS**, the Town of Barton Town Clerk received sealed bids and the bids came in as follows:

Dan Shay	\$14,400 (Cemetery); \$14,400 (Building)
K&K Law	\$21,000 for both Cemetery and Building
Shawn Waibel	\$16,000 (Cemetery) and \$2,000 (Building)

And

**WHEREAS**, the Town of Barton has completed the review of the bids and finds the low bidder Dan Shay meets all of the qualifications of the bid specifications;

**NOW THEREFORE** upon a motion by Board Member John Tryon and seconded by Board Member Kevin Everly and carried; therefore, be it

**RESOLVED**, that the Town of Barton authorizes awarding the bid of mowing cemeteries to Dan Shay not to exceed \$14,400 to be paid out of the following account annually for three (3) years (April 2020 through October 2022).

**Cemetery Contractual (B8810.4)**

**\$14,400**

**Roll Call Vote:**

Leon Cary	Absent
John Tryon	Aye
David Shipman	Nay
Kevin Everly	Aye
Don Foster	Aye

**Land Use Bid:**

Councilman Foster started out by saying he would like to have the Supervisor take the lead on this.

Councilman Everly stated Dave Shipman has paid the lease already for this year and doesn't think the board should be talking about it right now.

Councilman Tryon understood that after Councilpersons Everly and Foster had the conversation with the attorney from the Association of Towns, that this was all taken care of.

Councilman Foster said that if Dave's son rented the land and Dave abstained from voting on the land; that was fine.

Councilman Tryon asked if our attorney is disagreeing with that and Councilman Foster said, yes, according to the Supervisor.

Town Clerk Richards had received an email from the Attorney which was copied and placed in everyone's folders. The email stated she found the situation to be to be a conflict of interest.

Councilman Foster: Dave, how long have you been working those pieces of land?

Councilman Shipman: In the cannon hole, around the 1980's. The Town bought the land after the 2006 flood.

Councilman Foster: Who was the Town Supervisor at that time that gave you the okay?

Councilman Shipman: Dick.

Councilman Foster: Supervisor Cary. Has there been any trouble up to now?

Councilman Shipman: No

Councilman Foster: Has he asked you for any more money for the land?

Councilman Shipman: Nope.

Councilman Tryon: So that lease amount has been the same since 2006?

Councilman Shipman: Yep.

Councilman Foster: There's no bigger insult to a farmer than to take land away after years of building the soil up. We may own the land, but Dave has built the soil up and it wouldn't be fair if someone else comes in and reap the benefits of all that he's done. I realize it doesn't look the greatest, but he has worked that land long before he was on the Town Board and it is a fact that you must consider.

Superintendent Schweiger stated for OGS procurement bidding, and for any other type of bidding, you can take the bid that will give you the best value.

The AOT attorney says that when you're receiving money you don't have to put it out for a bid but when you're spending money you do, said Councilman Tryon.

Councilman Shipman paid his lease earlier this year and Supervisor Cary just sent him a refund check. Mr. Shipman has not cashed that refund check, leaving the money still in the Town's coffers.

Councilman Tryon thinks it is only fair to give Mr. Shipman a year's notice if they are going to change the way they've been handling it all these years.

Supervisor Cary asked Town Clerk Richards to put it out for bid at this meeting so the bids could be opened at the next board meeting.

Councilman Tryon thinks it is too late right now to put it out to bid as the farmers are putting stuff in the ground right now.

Councilman Foster: Dave, did Dick Cary, 15 years ago, approach you to have a contract signed?

Councilman Shipman: Nope. He told me what he wanted, and I said good.

Councilman Everly said the board can put some stipulations in the contract such as how the soil is to be kept up and the types of licenses the farmer must have.

Councilman Foster brought up a similar situation in Nichols, NY. The Town Supervisor, Kevin Englebert, has his son rent the land that surrounds their farm. This land was part of a FEMA buyout and is owned by the Town. They see that takes care of it in the eyes of the law.

Councilman Shipman talked about when his dad owned the land there was 40 acres over there. Over time, the land has been cut back. There's a lot less acres over there now than when his dad owned it. Councilman Shipman is paying \$200 for the one lot and \$600 for the cannon hole.

Councilman Tryon asked if you compare what you pay the town per acre, does it compare to other land you rent?

Councilman Shipman said, yes, pretty much. He's paying a little less per acre on the one lot but it's a real pain farming there. There are power poles, a well, guide wires and the land is L-shaped so he's losing some of the crop land there.

Councilman Everly said if there's an issue on the price it can be figured out in the contract that will come next year because the contract for this year has already been satisfied.

Councilman Foster said they will let Supervisor Cary take the lead on this. Anyone else have anything they'd like to discuss before we shut the meeting down?

Town Clerk Richards asked about the possibility of reopening Tuesday. She was told she can make up her own hours as to whether she'll be open or not open.

The board would like to see the highway workers start back up, so they are not overloaded in the summertime.

Highway Superintendent Schweiger said the county is working at 50% force and Tioga and Nichols are both shut down. If his department does open, he'd like to open with all six men. It's hard to get work done at half force. Unless he hears something from the Governor or from Supervisor Cary, Mr. Schweiger is ready to start back to work on Tuesday. He has a safety meeting already scheduled for Tuesday. He has handouts and will be ready to talk about what COVID is and each employee's responsibility regarding social distancing.

Councilman Foster asked if Supervisor Cary had given him any indication if he wanted him to open or not?

Mr. Schweiger said, no, he assumed he'd be here talking about that today.

Councilman Foster asked the Town Clerk the same question and she had not heard anything at that point.

Councilman Foster said in case something else changes, there is a meeting scheduled for Monday.

Councilman Everly was wondering why there was a meeting today (Friday) and again on Monday. The Town Clerk said if the board requested to rebid the mowing job, she needed to have at least ten days to be able to put it in the paper.

The Board Members said if a State of Emergency needs to be called on Monday, the Supervisor could make that decision. If there's not a decision, then the highway workers will go back to work.

Town Clerk brought up one more item. Zoom meetings. The County has already closed all meetings in the month of April to the public and are going electronically with them. The Town Clerk has spoken to the County IT and has access to their Zoom license which

allows our town to utilize this online utility at no additional cost. She would like to setup a practice session with the board next week in case the board is forced to do the same as the county. The board agreed.

A **motion** to adjourn the meeting at 1:30 pm made by **Councilman Tryon** and seconded by **Councilman Everly**.

Respectfully submitted,

*Arrah Richards*

Town of Barton Clerk